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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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July 18, 1997

BY HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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Re: Consolidated Comments to Petitions for Reconsideration
MM Docket No. 87-268

Dear Mr. Caton:

Enclosed for filing on behalf of Heritage Media Corporation are an original and four (4) copies of Consolidated Comments to Petitions for Reconsideration of the Fifth Report and Order and the Sixth Report and Order adopted by the Federal Communications Commission, in the above-referenced rulemaking proceeding. Please direct any questions concerning this matter to the undersigned.

Very truly yours,

Tom Davidson PSA

Tom W. Davidson, P.C.

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
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JUL 18 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Advanced Television Systems)
and Their Impact Upon the)
Existing Television Broadcast)
Service)

) MM Docket No. 87-268

To: The Commission

**CONSOLIDATED COMMENTS TO PETITIONS FOR RECONSIDERATION
OF THE FIFTH REPORT AND ORDER AND SIXTH REPORT AND ORDER**

Heritage Media Corporation and its wholly owned broadcasting subsidiaries ("Heritage"),¹ by their attorneys, hereby submit these Consolidated Comments to the Petitions for Reconsideration filed by Mountain Lake Public Broadcasting, Inc. ("Mountain Lake"); Mt. Mansfield Television, Inc. ("Mt Mansfield"); Trinity Christian Center Of Santa Ana, Inc., d/b/a Trinity Broadcasting Network ("TBN"); US Broadcast Group Licensee, L.P. I & L.P. II ("USBG"); and Gateway Communications, Inc. ("Gateway") (collectively the "petitioners") in response to the Fifth Report and Order and Sixth Report and Order adopted by the Federal Communications Commission ("FCC" or "Commission") in the above-captioned rulemaking proceeding.²

¹ Directly and through its subsidiaries, Heritage owns and operates the following television stations: Station WEAR-TV, Pensacola, Florida; WPTZ-TV, North Pole, New York; Station WCHS-TV, Charleston, West Virginia; Station WNNE-TV, Hartford, Vermont; and Station KOKH-TV, Oklahoma City, Oklahoma. In addition, Heritage has entered a time brokerage agreement with Champlain Valley Telecasting, Inc., licensee of Station WFFF(TV), Channel 44, Burlington, Vermont.

² Advanced Television systems and Their Impact Upon The Existing Television Broadcast Service, Fifth Report & Order, MM Docket No. 87-268, FCC 97-115 (released April 21, 1997) ("Fifth Report & Order"); and Advanced Television Systems and Their Impact Upon The Existing Television Broadcasting Service, Sixth Report & Order, MM Docket No. 87-268 FCC 97-115 (released April 21, 1997) ("Sixth Report & Order").

I. INTRODUCTION

Four of the petitioners, Mountain Lake, Mt. Mansfield, TBN and USBG, have requested changes to the Commission's Table of Allocations for digital television ("DTV") channels in the Burlington, Vermont / Plattsburgh, New York ("Burlington-Plattsburgh") television market. Gateway, the remaining petitioner, has requested reconsideration of the DTV allotment for a station in the Charleston - Huntington, West Virginia market. Heritage, the indirect licensee of television Station WPTZ-TV, North Pole, New York³ and Station WCHS-TV, Charleston, West Virginia, is concerned that grant of the petitioners' requested modifications to the DTV Table could result in changes which place both Heritage-owned stations in a competitive disadvantage in their respective markets.

II. DISCUSSION

Petitioners have requested that the Commission reconsider several DTV channel assignments made to television stations and television translator stations serving the Burlington - Plattsburgh market. For example, Mountain Lake, the licensee of non-commercial Station WCFE-TV, Plattsburgh, New York, is currently operating on Channel 57 and has been assigned DTV Channel 38. Unsatisfied with this allotment, Mountain Lake has requested that the Commission assign DTV Channel 13 or another workable lower-band DTV channel within the core spectrum to Station WCFE-TV. In addition, TBN has requested that the Commission modify its DTV Table of Allotments by assigning DTV channels to authorized low power television ("LPTV") stations and TV Translator facilities. To achieve this goal, TBN proposes to change the channel allotment for television Station WVNY, Burlington, Vermont, from DTV Channel 16 to 13. TBN argues that switching the

³ Station WPTZ-TV is located in the Burlington-Plattsburgh DMA.

channels in this manner would allow the Commission to assign DTV spectrum to TV Translator Station W16AL in Burlington, Vermont.

USBG, the licensee of a system of TV translators serving the Burlington market, also has expressed concern about the treatment of TV translators under the Commission's DTV rules. Although USBG's petition for reconsideration does not propose a specific modification to the DTV allocations for the Burlington market, it does express an intent to file such a proposal after the Commission's technical methodology, as outlined in OET Bulletin No. 69 (the "OET Bulletin"), is made available. In fact, the Commission released the OET Bulletin on July 2, 1997. Parties have until August 22, 1997, to supplement their petitions to incorporate the information contained in the OET Bulletin.⁴ Unfortunately, Heritage will not have any information regarding USBG's specific proposal until after this August filing date so it cannot fully comment on the effects of this proposal at this time. Mt. Mansfield, licensee of Station WCAX-TV, Channel 3, Burlington, Vermont, also has stated that it may make a specific reallocation proposal after the release of the OET Bulletin. Accordingly, Heritage is concerned that the combination of proposed DTV allotment changes in this market will adversely impact Station WPTZ-TV and its competitive position in the market, and will respond, as appropriate, to any supplemental comments filed by USBG or Mt. Mansfield based on the OET Bulletin.

A similar channel modification has been proposed in the Charleston-Huntington, West Virginia market. The Commission's Table of DTV Allocations assigns DTV Channel 54 to Station WOWK-TV in Huntington, West Virginia. Gateway, the licensee of Station WOWK-TV, notes that this allotment presents a "substantial likelihood" of unacceptable interference

⁴ Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, MM Docket No 87-268, Order, DA 97-1377 (released July 2, 1997).

with DTV Channel 55, which has been assigned to Station WCHS-TV, Charleston, West Virginia, a station indirectly owned by Heritage. To eliminate this potential interference, Gateway requests that the Commission assign DTV Channel 39 to Station WOWK-TV in lieu of its present Channel 54 allotment. According to Gateway's proposal, Channel 54 could then be allocated for the unbuilt construction permit (BMPCT-8910131KI) for Station WKRP-TV, Charleston, West Virginia. Heritage certainly seeks to avoid any interference that may result from Station WOWK-TV's operation on Channel 54; however, Heritage is concerned that Gateway's proposal must not create additional technical or service disadvantages which would harm Station WCHS-TV's competitive position in the market.

Grant of the requested changes to the DTV allotments in both the Burlington - Plattsburgh market and the Charleston - Huntington market would create a series of changes, in a domino effect, on the interference levels and service areas of stations serving these markets. These changes would have very real technical and financial consequences for each licensee in the market and could place Station WPTZ-TV and Station WCHS-TV at a competitive disadvantage in their respective markets vis a vis these petitioners. To complicate matters, due to the delayed release of the Commission's underlying technical methodology, some of the petitioners have not yet been able to specify their alternate channel requests. Therefore, at this time, Heritage cannot fully evaluate which of these proposed modifications would even cause such effects.

III. CONCLUSION

While the Commission should seek to accommodate some reallocation requests, it must not do so in a manner which would place either Station WPTZ-TV or Station WCHS-TV at an unfair competitive disadvantage vis a vis other licensees in the market. Accordingly, in light of the information contained in the recently released OET Bulletin,

Heritage will file further evaluations of petitioners' proposals by the August 22 filing deadline and may file further comments, as appropriate, on any supplemental comments filed by petitioners on that deadline.

Respectfully submitted,

HERITAGE MEDIA CORPORATION

By: Tom Davidson *PSA*
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Date: July 18, 1997

CERTIFICATE OF SERVICE

I, Annamarie Valenti, an employee of Akin, Gump, Strauss, Hauer & Feld, L.L.P., certify that a copy of the foregoing Consolidated Comments to Petitions for Reconsideration of the Fifth Report and Order and Sixth Report and Order was sent via First Class U.S. mail, postage prepaid, on this 18th day of July, 1997 to the following parties:

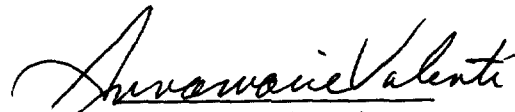
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